

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NORTHERN NEW MEXICO
STOCKMAN'S ASSOCIATION and
OTERO COUNTY CATTLEMAN'S
ASSOCIATION,

Plaintiffs,

vs.

Case No. 1:18-cv-01138-SCY-JHR

**NOTICE REGARDING DEADLINE
TO RESPOND TO COMPLAINT**

UNITED STATES FISH AND WILDLIFE
SERVICE and MARGARET EVERSON,
in her official capacity as Principal Deputy
Director of the United States Fish and
Wildlife Service,¹

Defendants.

Federal Defendants hereby provide notice that the deadline to file the answer or otherwise respond to the Complaint (ECF No. 1) is April 1, 2019.

On January 2, 2019, Plaintiffs filed the Summons returned executed. ECF No. 7. The docket entry states that Federal Defendants were served on December 17, 2018, and that the answer or other response to the Complaint is due February 15, 2019. ECF No. 7. However, the U.S. Attorney for the District of New Mexico was served on December 26, 2018. This date is shown in the delivery receipt submitted with the Summons. ECF No. 7 at 6. The deadline for the United States to respond to a complaint is generally 60 days after service on the U.S. Attorney for the district where the suit is filed. See Federal Rule of Civil Procedure 12(a)(2).

¹ Pursuant to Federal Rule of Civil Procedure 25, Margaret Everson is automatically substituted for her predecessor in office.

During the lapse in appropriations for the federal government, the Chief United States District Judge for the District of New Mexico issued two orders staying civil cases involving the United States and extending deadlines commensurate with the duration of the lapse in appropriations. See ECF No. 6; “In the Matter of Civil Proceedings Involving the United States During Federal Lapse in Appropriations,” 18-MC-04-55 (December 27, 2018); “Order Extending Stay of Civil Cases Involving the United States,” 19-MC-04-03 (January 15, 2019). Therefore, the deadline to respond to the Complaint has been extended commensurate with the duration of the lapse of appropriations, which was 35 days.

Because the Complaint was served on December 26, 2018, and the deadline to respond was extended commensurate with the duration of the lapse in appropriations, Federal Defendants answer or other response to the Complaint is due April 1, 2019. Federal Defendants’ counsel has conferred with counsel for Plaintiffs and they agree that April 1, 2019 is the appropriate deadline. Federal Defendants file this notice to correct the deadline reflected in the docket entry for the Summons (ECF No. 7) and ensure the Court is aware of the correct deadline.

Respectfully Submitted by

JOHN C. ANDERSON
United States Attorney

/s/ Electronically filed February 14, 2019

MANUEL LUCERO
Assistant United States Attorney
P.O. Box 607
Albuquerque, NM 87103
(505) 224-1467
manny.lucero@usdoj.gov

JEAN E. WILLIAMS,
Deputy Assistant Attorney General

SETH M. BARSKY, Chief
S. JAY GOVINDAN, Assistant Chief

/s/ Devon Lea Flanagan
DEVON LEA FLANAGAN, Trial Attorney
(Application for Admission Pending)
DC Bar No. 1022195
U.S. Department of Justice
Environment & Natural Resources Division

Wildlife & Marine Resources Section
Ben Franklin Station, P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 305-0201
Facsimile: (202) 305-0275
Email: devon.flanagan@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 14, 2019, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

/s/ Electronically filed February 14, 2019
MANUEL LUCERO
Assistant United States Attorney